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**ATTORNEY FOR PLAINTIFF**  
**UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

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<b>UNITED STATES OF AMERICA,</b>  <b>Plaintiff,</b>  <b>vs.</b>  <b>SHALAKO JAMES KATZER,</b>  <b>Defendant.</b>	<b>MJ 15-70-M-JCL</b>  <b>OFFER OF PROOF</b>
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The United States of America, represented by Joseph P. Cik, Assistant United States Attorney for the District of Montana, files its offer of proof.

## **THE CHARGE**

The defendant, Shalako James Katzer, is charged by Information with the charge of Knowingly Taking a Threatened Species in violation of 16 U.S.C. §§1538(a)(1)(G), 1540(b)(1), and 50 C.F.R. § 17.40(b)(1)(i)(A). The defendant will plead guilty to this charge pursuant to a plea agreement.

## **ELEMENTS OF THE CHARGE**

In order for the United States to prove the charge, Knowingly Taking a Threatened Species, the United States must prove each of the following elements beyond a reasonable doubt:

1. The Defendant knowingly killed a grizzly bear, which he believed to be a grizzly bear;
2. The bear was a grizzly bear (*ursus arctos horribilis*);
3. The Defendant had no permit from the United States Fish & Wildlife Service to kill a grizzly bear; and
4. The Defendant did not act in self-defense or defense of others.

## **PENALTY**

The charge in the Information carries a maximum penalty of 6 months imprisonment, a \$25,000 fine, and a \$10 special assessment.

## **ANTICIPATED EVIDENCE**

If this case were tried in United States District Court, the United States would prove the following:<sup>1</sup>

On May 22, 2015, The Defendant and his family were camping in motor homes at the Yaak Falls Campground, in Lincoln County, in the State and District of Montana. The Defendant and his brother were informed by an unknown individual that a grizzly bear was headed toward the campground. A few minutes later the bear was spotted in the campground.

After seeing the bear, the Defendant and his brother retrieved their firearms. The Defendant's brother then fired two rounds from his rifle near the bear. The bear then retreated from the area. The Defendant and his brother pursued the bear around the surrounding area of the campground. The Defendant and his brother confronted the bear again, near the Yaak River. The bear retreated again to the area near Yaak River Road.

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<sup>1</sup> The offer of proof does not encompass all of the proof that the United States would offer at trial but only the proof that would be necessary to support the elements of the charges to which the defendant is pleading guilty. The United States possesses, or may possess, other evidence that may be redundant to the evidence described above or otherwise unnecessary to the purposes of this stage of the proceeding. The United States possesses, or may possess, other evidence that will more fully inform the Court as to the appropriate sentence. Neither the Court nor the defendant should consider this pleading as inclusive of all evidence known to the government or a self-imposed limitation on the evidence it may use in the future for purposes other than to support the entry of plea.

The Defendant and his brother pursued the bear and confronted it near Yaak River Road. The Defendant then fired a round from the firearm he was carrying. The firearm was a .45 caliber pistol. A subsequent investigation proved that the bullet that killed the bear in question was fired by the Defendant.

If this case were to proceed to trial, this evidence would be proven by the testimony of lay and law enforcement witnesses. The evidence would also show that the Defendant killed the bear knowingly and did so not acting in defense of self or others.

DATED this 23rd day of February, 2016.

MICHAEL W. COTTER  
United States Attorney

/s/Joseph P. Cik  
Assistant U.S. Attorney  
Attorney for Plaintiff